



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2022

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.17642 of 2010

Tamilmani

.. Petitioner

Versus

1. The Government of Tamil Nadu
Rep. by its Secretary,
Department of Agriculture,
Fort St.George,
Chennai - 600 009.

2. The Secretary,
Tamil Nadu Public Service Commission,
Chennai - 600 002.

3. The Commissioner,
Horticulture and Plantation Crop,
Chepauk,
Chennai - 600 005.

.. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the first respondent in G.O.(3D) No.18, Agriculture (Veni7) Department, dated 28.01.2009 and quash the same as illegal and to direct the third respondent to give promotion to the petitioner with all monetary benefits.

For Petitioner : Mr.M.Sridharan

For Respondents : Mrs.E.Ranganayaki
Additional Government Pleader
for RR-1 and 3

: Mr.Karthk Rajan, for R2

ORDER

The petitioner, who was working as Horticulture Officer under the respondents, has filed this Writ Petition challenging the impugned G.O.(3D) No.18, dated 28.01.2009, whereby, the appellate authority had rejected the appeal filed by him and



confirming the punishment of increment cut for a period of five years imposed by the original authority, namely the third respondent, on 04.09.2000.

2. The case of the petitioner is that a charge memo was issued on 15.06.1995 containing three charges that saplings worth Rs.85,000/- were shown to be transported through Jamunamarathoor Integrated Scheduled Tribe Upliftment Scheme. However, no corresponding permission of the concerned Horticulture Officer was found and therefore, the statement Nos.7, 8, 9, 10, 11 are found to be concocted and incorrect. The second charge is the charge of insubordination of attempting to regularise the sum of Rs.85,000/- on his own without any order of concerned officials and the consequential charge of bringing disrepute to the Government on account of the above action.

3. The petitioner submitted explanation in detail denying the charges and submitted that with the permission, through one Sangeetha Lorry Service, those plants were actually transported and therefore, there was no any commission or omission in this regard. As far as obtaining of orders of higher officials is concerned, oral permission of M.Velu, who was the incharge officer, who was working along with the petitioner, was obtained and there was no violation of procedure or protocol in the matter. The consequential third charge is denied. The disciplinary authority did not accept the explanation submitted by the petitioner and therefore, an Enquiry Officer was appointed. The Enquiry Officer conducted a detailed oral enquiry, in which, on behalf of the respondents, five witnesses, namely one K.Subramani, Assistant Agricultural Inspector; M.Velu, Horticulture Officer; K.Veeraraghavan, Field Officer; K.Vijaya Kumar, Executive, Lamp Society, Jamunamarathoor; A.Sivaji, Writer, Lamp Society, Jamunamarathoor were all examined and upon consideration of the oral and documentary evidence on record, came to the conclusion that all the three charges against the petitioner stood proved. The petitioner was forwarded with the copy of the Enquiry Officer's report and he submitted his additional explanation. Upon considering the Enquiry Officer's report and the further explanations submitted by the petitioner, the disciplinary authority, by its order, dated 04.09.2000, considering each and every charge in detail, the finding of the Enquiry Officer, the further explanation of the petitioner and considering the nature of the charges, imposed a punishment of stoppage of increment cut for a period of five years with cumulative effect.

4. The petitioner submitted an appeal against the order of punishment. By that time, since the petitioner got superannuated in service, opinion of the Tamil Nadu Public



Service Commission was obtained in respect of his appeal and by an order, dated 28.01.2009, upon consideration of the opinion of the Tamil Nadu Public Service Commission, the appellate authority, considering the nature of the charges, the explanations, decided to accept the recommendation of the Tamil Nadu Public Service Commission that the disciplinary authority has rightly imposed the punishment by following the due procedure and therefore, rejected the appeal. Aggrieved by the said orders, the present Writ Petition is filed.

5. Heard Mr.M.Sridharan, learned Counsel for the petitioner and Mrs.E.Ranganayaki, learned Additional Government Pleader for the respondents 1 and 3 and Mr.Karthik Rajan, learned Counsel for the second respondent.

6. The learned Counsel for the petitioner took this Court through the Enquiry Officer's report as well as the disciplinary and appellate authority's order and submitted that no positive finding, regarding the defence of the petitioner that actually those saplings were transported through one Sangeetha Lorry Service and the concerned bills of the lorry service have been produced, has been rendered by the authorities and therefore, when the petitioner has produced contra evidence and has participated in the enquiry by submitting a plausible explanation, non-acceptance of the said explanation by the authorities is incorrect in law and therefore, prayed that this Court should interfere with the matter.

7. Per contra, the learned Additional Government pleader would submit that the matter of appreciation of the evidence is in the realm of the Enquiry Officer, who is fact finding authority and thereafter disciplinary and appellate authority and those authorities have construed the issue in detail by applying their mind to the evidence on record and therefore, this is not a case which warrants interference by way of judicial review as the disciplinary enquiry has been conducted in accordance with rules and procedure and the finding of the disciplinary authority as well as the appellate authority is based on the evidence on record.

8. I have considered the rival submissions made on behalf of both the sides and perused the material records of this case. In this case, I am unable to agree with the learned Counsel for the petitioner that the petitioner has brought on record about the factum as to his innocence of the charges. First, when it is the established procedure that the transported saplings have to be sent to the society and from there, it has to be distributed, there was no explanation forthcoming in this regard. Though the lorry receipts for transportation for one or two loads have been produced, it will not conclusively establish



that the petitioner is not the guilty of the misconduct. Under these circumstances, when there is evidence on record and after considering the evidence of both the sides, when the Enquiry Officer has appraised the evidence and has come to the conclusion, this Court cannot reappraise the evidence as an appellate authority and substitute its own findings to that of the Enquiry Officer or disciplinary authority. Suffice it to say that on perusal of the material records, the petitioner is unable to bring home the point that the findings of the Enquiry Officer or disciplinary or appellate authority is perverse in nature. When the finding is based on the evidence available in the material records, appraised and conclusions drawn, no exception can be taken for the findings of the Enquiry Officer as well as the disciplinary authority. Except for the above, no other ground is urged before this Court.

9. Therefore, the Writ Petition fails and is accordingly dismissed. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

grs

To

1. The Secretary,
Department of Agriculture,
Fort St.George,
Chennai - 600 009.
2. The Secretary,
Tamil Nadu Public Service Commission,
Chennai - 600 002.
3. The Commissioner,
Horticulture and Plantation Crop,
Chepauk, Chennai - 600 005.

+1cc to the Government Pleader, S.R.No.28623

W.P.No.17642 of 2010

GPL(CO)
SB(04/05/2022)